

After reviewing the record and considering the arguments of the parties, the Appeals Board finds and concludes as follows:

(1) The Administrative Law Judge has withdrawn the Order for attorney's fees and there is, therefore, no Order for review by the Appeals Board relating to attorney's fees. Claimant's request for attorney's fees in connection with this appeal should be submitted to the Administrative Law Judge along with the request for other attorney's fees in connection with these post-award proceedings.

(2) Claimant's post-award application for medical benefits was made by application for preliminary hearing and for purposes of the standard of review on appeal, is treated the same as a preliminary hearing. As a preliminary hearing Order, it is reviewable only if the Administrative Law Judge has exceeded his or her jurisdiction. K.S.A. 44-534a.

Respondent argues that the Administrative Law Judge should not have ordered examination or treatment for claimant's low back or left knee because the original Award was not for injury to the left knee or low back. In fact, the original Award denied claimant's contention that the low back had been injured as a result of an altered gait due to a right knee injury. No claim was made at that time for injury to the left knee.

In this review and modification proceeding, claimant asserts that the injury to the right knee, which was the subject of the original Award, has since resulted in a need for medical treatment to the left knee and low back. Claimant contends this need is a natural and probable consequence of the original injury to the right knee. Following the preliminary hearing, the Administrative Law Judge ordered an independent medical examination to be performed by Dr. Eyster for the express purpose of determining whether the left knee and low back symptoms were a natural and probable consequence of the injury of the right knee. The Appeals Board finds the Administrative Law Judge did have jurisdiction to order an independent medical examination for the purpose stated. The Appeals Board, therefore, concludes that the Order should remain in effect as entered.

WHEREFORE, the Appeals Board finds that the application for review of an order for attorney's fees should be dismissed. The Appeals Board further finds that the Order of the Administrative Law Judge dated January 26, 1995 relating to the independent medical examination remains in full effect as originally entered.

IT IS SO ORDERED.

Dated this ____ day of May, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: Norman I. Cooley, Wichita, Kansas
 Terry J. Torline, Wichita, Kansas
 Nelsonna Potts Barnes, Administrative Law Judge
 George Gomez, Director